



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 10, 1998

Mr. Richard Brown
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-2159

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118103.

The City of Dallas (the "city") received a request for a copy of an arrest report in connection with an incident involving a charge of driving while intoxicated. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 provides that:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

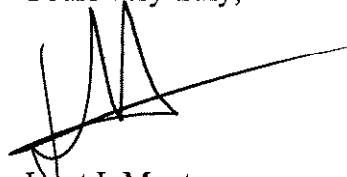
You assert that the documents are excepted from disclosure on the basis of section 552.108. Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You indicate that the documents involve an ongoing prosecution and have provided a letter from Mr. Donald G. Davis, an Assistant District Attorney with the Dallas County District Attorney's Office. He asks that the information concerning service number 0061532-G be withheld. Since there is an ongoing prosecution, we agree that you have shown that release of this information would interfere with the investigation or prosecution of crime. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); *see* Open Records Decision No. 216 at 3 (1978) (release of information during

pending criminal case would interfere with prosecution of crime and law enforcement interests).

We note that section 552.108(c) provides that basic offense report information is not protected from disclosure under section 552.108. Basic information is the type of information that is generally included on the front page of an offense report, including a detailed description of the incident. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Although this information is generally found on the front page of an offense report, its location is not determinative and it must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located. *See* Open Records Decision No. 127 at 5 (1976). We also note that the city has discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', with a long horizontal line extending to the right.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 118103

Enclosures: Submitted documents

cc: Mr. James P. Barklow
6116 N. Central Expressway, #500
Dallas, Texas 75201
(w/o enclosures)